

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MYRACENE ZAVOT,)	
)	Civil Action
Plaintiff,)	No. 1:16-cv-3877-AT
v.)	
)	
BURGER DOCS ATLANTA, INC.,)	JURY TRIAL DEMANDED
)	
Defendants)	
)	
)	
)	

**PLAINTIFF MYRACENE ZAVOT’S MOTION FOR
LEAVE TO FILE FIRST AMENDED COMPLAINT**

Plaintiff Myracene Zavot, through his counsel, files this motion respectfully requesting that the Court grant Plaintiff leave to file the attached First Amended Complaint adding Michelle McCaulley as a Defendant. In support of the amendment, Plaintiff shows as follows.

1. On October 18, 2016, Plaintiff filed his one count Complaint against Defendant Burger Docs Atlanta, Inc., alleging a claim for unpaid overtime under the Fair Labor Standards Act (“FLSA”).

2. On November 28, 2016, Defendant Atlanta Custom Coach filed its Answer to the Plaintiff’s Complaint, along with several counterclaims.

3. On December 20, 2016, the parties jointly moved to stay the start of discovery to attempt mediation. The Court granted the parties' request for a stay and set the commencement of discovery for January 23, 2017.

4. The parties attempted mediation on January 23, 2017. Mediation was unsuccessful.

5. Plaintiff now seeks leave to amend his Complaint to add Defendant Burger Docs' owner and operator, Michelle McCaulley as a Defendant to Plaintiff's FLSA claim.

6. Pursuant to Rule 15(a) of the Fed. R. Civ. P., "leave to amend "shall be freely given when justice so requires," and there must be some substantial reason such as undue delay, bad faith or dilatory motive on the part of the movant, undue prejudice to the opposing party, or futility, to justify denying a motion to amend"". *Schowalter v. Ridge*, 2009 U.S. Dist. LEXIS 26165 (N.D. Ga. Mar. 27, 2009) (*quoting* *Espey v. Wainwright*, 734 F.2d 748, 750 (11th Cir. 1984)).

7. Plaintiff files this motion for good cause, very early in the action and before the parties have filed their Joint Preliminary Report and Discovery Plan.

WHEREFORE, Plaintiff respectfully requests that the Court grant this motion permitting Plaintiff to file the attached First Amended Complaint.

Respectfully submitted, this 25th day of January, 2017.

s/V. Severin Roberts, Esq.
V. Severin Roberts, Esq.
Georgia Bar No. 940504

BARRETT & FARAHANY, LLP
1100 Peachtree Street, NE
Suite 500
Atlanta, Georgia 30309

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing Plaintiff Myracene Zavot's Motion for Leave to File First Amended Complaint with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to all attorneys of record:

This 25th day of January, 2017.

s/V. Severin Roberts, Esq.
V. Severin Roberts, Esq.
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